

HUMAN SERVICES BOARD

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Economic Services Division finding her liable for an overpayment of Food Stamps. The matter was continued for several months primarily due to a delay in the resolution of another appeal involving the petitioner's eligibility for RUFA (see Fair hearing No. M-10/09-523). At a status conference held on June 10, 2010 the petitioner agreed to promptly file a written response to the Department's position. In an email to the petitioner and the hearing officer dated June 14, 2010 the Department represented that the petitioner had agreed to file any rebuttal to the Department's position by June 22, 2010. The petitioner did not respond prior to the Board meeting on July 6, 2010.

DISCUSSION

In a letter dated May 18, 2010, the Department set out its position in the matter as follows:

This is in response to your query concerning [petitioner's] Food Stamps/3Squares overpayment history. [Petitioner] was subject to recoupment for two separate overpayments. The first recoupment was complete as of September, 2009. At that point, the second recoupment commenced. I have provided you documentation of the basis for the second overpayment. It amounted to \$304 and occurred because of a household member's unreported employment resulting in excess benefits issuances in April and May, 2008. There does not appear to be any factual dispute concerning the amount of this second overpayment or your client's liability to reimburse the Department for it. As I understand it, your client suspects that as of September, 2009, she had repaid fully both overpayments, not just the first, so no further recoupments should have been made from her benefits after that.

Your client's suspicions stem from the fact that she received notices concerning the second overpayment in June and July, 2008, over a year before recoupment of the first overpayment was complete and the second began. I have provided you copies of these notices. Her suspicions were bolstered by the Department's inability to produce contemporary documentation showing the basis of the first overpayment. Although the Department has produced a Food Stamp claim and associated income verification worksheet related to the second overpayment, similar records relating to the first overpayment are missing. However, other documents which I discovered demonstrate conclusively that as of September, 2009, only the first overpayment had been recouped, and recoupment of the second had yet to commence.

According to a notice the Department sent your client on May 22, 2006, the first overpayment amounted to \$760 for the period from January 1, 2006 to May 31, 2006. *Exhibit 1.* A CATN note of June 6, 2006, records

an attempt by caseworker [name] to call [petitioner] to discuss her Food Stamp overpayment. *Exhibit 2*. A week later, [name] sent [petitioner] a letter proposing reimbursement at the rate of \$50/month. *Exhibit 3*. The Morrisville District Office has provided me with printouts of computer screens showing the actual progress of the reimbursement. *Exhibit 4*. According to these records, the recovery began with an overissuance amount of \$760, recouped at 10% of the benefit amount, terminating with a balance of \$0 on August 31, 2009. The records show the amount recouped each month and the quarter by quarter diminution of the balance from \$760 to \$0. Since only \$760 had been recouped as of September, 2009, the records show that the \$304 second overpayment remained to be recovered on that date.

As noted above, the petitioner did not file any response, and has given no indication that she disagrees with either the stated factual or legal bases of the Department's decision.¹ There is no indication that the Department's decision is not fully in accord either with the facts in the case or with the regulations regarding the establishment and recoupment of Food Stamp overpayments. See W.A.M. §§ 273.18 *et seq.* Therefore the Board is bound to affirm the Department's decision. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

ORDER

The Department's decision is affirmed.

¹ Any and all "notice issues", insofar as they pertain to relief at this time, were addressed by the Board in Fair Hearing No. M-10/09-523.